

APPEAL NO. 040267
FILED MARCH 10, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on January 8, 2004. The hearing officer determined that the respondent (claimant) sustained a compensable injury on _____; that the compensable injury includes herniated discs at L2-3 and L3-4; and that the claimant had disability from June 12, 2003, through the date of the CCH.

The appellant (self insured) appeals the adverse determinations, contending that the claimant was at no greater risk at the time of her injury than the general public; that without a compensable injury there can be no disability; and that if there is an injury the mechanics of the injury do not support the severity of the injury found by the hearing officer. The claimant responds, urging affirmance.

DECISION

Affirmed.

The claimant was employed as a bus driver by the self-insured and asserts that on _____, she sustained a compensable low back injury while driving her bus when she hit a bump or pot hole. The claimant went to the self-insured's clinic and was diagnosed with a lumbar strain. A subsequent MRI performed on August 15, 2003, had an impression of herniated discs at L2-3 and L3-4. The self-insured's peer review doctors give the opinion that the driving general public is exposed to bumps on roads and therefore any back complaints attributed to a bumpy road "would essentially be related to an ordinary disease of life." We would note that the peer review doctors' conclusion is more of a legal conclusion than a medical opinion. We certainly decline to hold, as a matter of law, that any injuries sustained driving on a bumpy road are ordinary diseases of life.

The hearing officer's determinations on the disputed issues are supported by the evidence. Insofar as there was conflicting evidence presented on the disputed issues, the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. The hearing officer's decision is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**EXECUTIVE DIRECTOR
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Thomas A. Knapp
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Edward Vilano
Appeals Judge